

**UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT**

Deborah S. Hunt  
Clerk

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Filed: December 18, 2013

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Re: Case No. 13-6004, *Donna Sherwood, et al v. TVA*  
Originating Case No. : 3:12-cv-00156

Dear Counsel:

The Court issued the enclosed Order today in this case.

Sincerely yours,

s/Robin L. Johnson  
Case Manager  
Direct Dial No. 513-564-7039

cc: Ms. Debra Poplin

Enclosure

No. 13-6004

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

DONNA W. SHERWOOD, et al.,

Plaintiffs-Appellants,

v.

TENNESSEE VALLEY AUTHORITY,

Defendant-Appellee.

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)**FILED**  
Dec 18, 2013  
DEBORAH S. HUNT, ClerkO R D E R

The plaintiffs move to certify a question of law to the Supreme Court of Tennessee. Defendant Tennessee Valley Authority opposes the motion to certify.

Pursuant to Rule 23 of the Supreme Court of Tennessee “a question of law is eligible for certification where this court determines that (1) there is a question of law that is determinative of the cause, and (2) there is no controlling precedent in Tennessee Supreme Court decisions.” *BKB Props., LLC v. SunTrust Bank*, 453 F. App’x 582, 588 (6th Cir. 2011). The question of whether the requested certification is warranted is intertwined with the merits of the appeal and should be considered by the merits panel. *See Pennington v. State Farm Mut. Inc. Co.*, 553 F.3d 447, 450 (6th Cir. 2009) (denying a motion to certify because “the relevant caselaw . . . provides sufficient guidance to allow us to make a clear and principled decision”).

The motion to certify is referred to the panel to be assigned to hear the appeal on the merits.

ENTERED BY ORDER OF THE COURT




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 Clerk